HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 22037 of 2002

Dated: 18-07-2007

Between:

Ather Shareef

..... PETIT

AND

Assistant Divisional Engineer,
Distribution VI,
Musheerabad Section,
Hyderabad and 2 others.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 22037 of 2002

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the action of the respondents in disconnecting the power supply to the service connection to the petitioner's premises No.1-7-474 to 476, Musheerabad as null, void and illegal and also for a consequential direction to the respondents to restore the power supply to the service connection No.F1-9448 at the petitioner's premises at 1-7-474 to 476, Musheerabad, Hyderabad.

One Smt. K.Sukrutha was the registered consumer with meter No.F1-9448 (III phase), who obtained the electricity connection for running a Flour Mill in the premises bearing No.1-7-512/5 Musheerabad. She made an application on 01-02-2002 to the second respondent-Assistant Engineer wherein she requested to shift the said service connection to MCHNo.1-7-474, 476 at Dayara Market, Musheerabad in order to utilize the said service connection for other business purpose. Evidently, the said service connection was shifted. However, the power supply was disconnected to the premises to which the service connection was shifted on 10-10-2002. The petitioner then filed the present writ petition and this Court on 25-11-2002 granted interim direction to restore the power supply.

The first respondent filed a counter affidavit in which it is stated that though Smt. K.Sukrutha sought for shifting of the connection, she has not stated the purpose for which the shifting was sought namely to run the Welding workshop. It is further stated that the transfer application has not been signed by the petitioner and therefore, no action has been taken on the said application. It is also stated that since the people in the locality complained of the voltage fluctuation in view of running of Welding machine and the supply was being used for a purpose different from the one for which it was released, the power supply was disconnected and however, in view of the interim orders of this Court, the same was restored on 03-12-2002.

Heard Sri K.Venu Madhav, learned counsel for the petitioner and Sri S.V.Ramana, learned standing counsel for the respondents.

Sri S.V.Ramana submitted that though the service connection was shifted to the premises in occupation of the petitioner, in view of the non fulfillment of the formalities such as failure on the part of the petitioner to sign on the transfer form, the service connection could not be transferred in favour of the petitioner. He also submitted that since the local residents have complained of voltage fluctuations, the power supply was disconnected. He, however, conceded that no notice was given either to Smt. K.Sukrutha or the petitioner before the power supply was disconnected.

Having considered the respective submissions of the learned counsel, I am of the view that the action of the respondents in disconnecting the power supply without a prior notice cannot be sustained. Admittedly, the connection was shifted to the premises in which the petitioner is carrying on his Welding workshop. Though Smt. K.Sukrutha remains the registered consumer, it appears that the petitioner is in occupation and carrying on the business of Welding. It was, therefore, incumbent upon the respondents to issue notice either to the registered consumer or the petitioner, who is the occupier of the premises before disconnecting the power supply before taking further action.

Therefore, the writ petition is allowed. Since the power supply was already restored in pursuance of the interim direction of this Court, there shall be a direction to continue the power supply. This order, however, does not preclude the respondents from taking necessary action under the terms and conditions of supply after issuing a notice to the petitioner and the registered consumer. No costs.

C.V.NAGARJUNA REDDY,J

Date: 18-07-2007
KLP